

The Honorable Tiffany M. Cartwright

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LEONA M. QUALEY, individually and as
Personal Representative for the Estate of
MOSES PORTILLO,

Plaintiffs,

vs.

COUNTY OF PIERCE, a political
subdivision of the State of Washington,
d/b/a Pierce County Sheriff's Office,
EDWARD TROYER, an individual and
THOMAS DOLAN, an individual,

Defendants.

NO. 3:23-cv-05679-TMC

JOINT STATUS REPORT

Plaintiffs Leona M. Qualey, individually and as personal representative for the
Estate of Moses Portillo, and Defendants Pierce County, Edward Troyer, and Thomas
Dolan, by and through their counsel of record, submit the following joint status report.

1. Statement of the nature and complexity of the case.

This is a Section 1983, negligence, and wrongful death action against Defendants
Pierce County, Pierce County Sheriff Edward Troyer, and Pierce County Sheriff's

1 Deputy Thomas Dolan arising from the death of Moses Portillo on January 16, 2022.
2 Plaintiff Leona Qualey is the mother of Moses Portillo and the personal representative of
3 his estate. Plaintiff alleges that Deputy Dolan used excessive, unnecessary, and
4 unconstitutional force during a traffic stop, resulting in Moses Portillo's death, and that
5 Pierce County negligently trained and supervised deputy Dolan.
6

7 Plaintiff maintains this is a case of moderate but not unusual complexity for a
8 wrongful death lawsuit.

9 **2. Proposed deadline for joining additional parties.**

10 The parties propose December 29, 2023 as the deadline for joining additional
11 parties.
12

13 **3. Agreement on magistrate.**

14 No.

15 **4. Discovery plan.**

16 **a. Initial disclosures.**

17 The court-ordered deadline for exchanging initial disclosures is November 24,
18 2023. The parties anticipate no difficulty meeting this deadline.
19

20 **b. Subjects, timing, and phasing of discovery.**

21 The parties believe discovery on liability and damages will be needed and that
22 factual discovery should generally precede expert discovery. The parties do not believe
23 formal discovery phasing is necessary.

24 **c. Electronically stored information.**

25 The parties expect electronic information (ESI) in the form of emails, text

1 messages, mobile data computer data, radio/dispatch/911 audio, body cam and dash
2 video, CAD logs/inquiries, electronically recorded interviews and statements, and police
3 reports and law enforcement investigation records.

4 At this time, the parties do not believe that production and management of ESI
5 will be excessive or complicated or require entry of an order pertaining to ESI.
6

7 **d. Privilege issues.**

8 The parties do not anticipate any unique or unusual privilege issues. To the extent
9 any privileged material is responsive to the parties' discovery requests, the parties shall
10 produce privilege logs recording those materials and the grounds on which the materials
11 are withheld. Privilege logs shall be produced at the time of the document production to
12 which they relate. The parties agree to use the Model Stipulated Protective Order if
13 needed.
14

15 **e. Proposed limitations on discovery.**

16 None. The parties agree that the limits on discovery set forth in Fed. R. Civ. P.
17 26(b)(1) and (2), 30(a), and 33(a) are appropriate and do not presently intend to seek an
18 order deviating from those limits. The parties reserve the right to seek modifications
19 regarding discovery limits in the future.
20

21 **f. Need for any discovery related orders.**

22 The parties do not anticipate the need for discovery-related orders. Any discovery
23 disputes shall be presented to the court by requesting a discovery or case management
24 conference or in accordance with the Expedited Joint Motion Procedure as set forth in
25 Local Rule 37(a)(2).

1 **5. Parties' views on the following subjects:**

2 **a. Prompt case resolution.**

3 The parties are desirous of prompt resolution but believe that alternative dispute
4 resolution or other resolution of the case must await discovery. After discovery has been
5 conducted, the parties will attempt to engage in informal negotiations concerning the
6 potential prompt resolution of this case.
7

8 **b. Alternative dispute resolution.**

9 The parties have already agreed to engage in formal mediation with a private
10 mediator if they are unable to reach resolution with informal negotiations. The parties do
11 not wish to participate in the Local Rule 39.2 Individualized Trial Program.
12

13 **c. Related cases.**

14 There are no related cases.

15 **d. Discovery management.**

16 Pursuant to Local Rule 26(f)(1)(D), the parties agree to manage discovery to
17 promote the expeditious and inexpensive resolution of the case. The parties agree that
18 discovery requests, responses, initial disclosures, deposition notices, and other case-
19 related materials not filed with the Court may be served electronically, via email,
20 pursuant to the terms of an E-service agreement. If discovery is obtained from third-party
21 sources, it will be shared, as well as the costs in obtaining the same, if applicable,
22 between the parties.
23

24 **e. Anticipated discovery sought.**

25 Without waiver, Plaintiff anticipates seeking at least the following discovery:

1 • Documents/materials

- 2 ○ Any incident-related materials including statements, interviews,
3 investigations, reports, videos, and audio;
4 ○ Any communications related to the incident including emails, texts, or
5 messages;
6 ○ Policies, guidelines, and training materials related to traffic stops,
7 violence de-escalation, high-risk vehicle stop tactics;
8 ○ Employment and personnel file for Deputy Dolan including training
9 history, discipline history, and complaints;
10 ○ Forensic, postmortem, and toxicology reports;
11 ○ Third-party subpoenas for video recordings of the incident;
12 ○ The BMW vehicle in which Moses Portillo was sitting during the
13 incident (inspection);
14 ○ The BMW vehicle in which Moses Portillo was sitting during the
15 incident (inspection);

16 • Depositions

- 17 ○ Depositions of Defendants Dolan and Troyer
18 ○ Law enforcement personnel who investigated the incident, names TBD
19 ○ Fed. R. Civ. P. 30(b)(6) representative of Pierce County Sheriff's Office
20 ○ Fed. R. Civ. P. 30(b)(6) representative of Washington State Criminal
21 Justice Training Commission
22 ○ Defendants' experts
23
24
25

1 Defendants anticipate seeking the following discovery:

- 2 • Documents/materials
- 3 • Medical records of Plaintiffs
- 4 • Depositions

5 **f. Phasing motions.**

6 The parties do not anticipate that phased motions will occur in this case, and no

7 agreement regarding phased motions is required.

8 **g. Preservation of discoverable information.**

9 The parties do not anticipate any unique or special information for preservation

10 issues. The parties agree to preserve potentially discoverable information in their

11 respective possession and control, irrespective of whether a request has been made for

12 such discoverable material.

13 **h. Privilege issues.**

14 See section 4(d) above.

15 **i. Model Protocol for Discovery of ESI.**

16 See section 4(c) above.

17 **j. Alternatives to Model Protocol.**

18 See section 4(c) above. The parties will adhere to the Model Protocol, as

19 modified, to the extent necessary.

20 **6. Date by which discovery can be completed.**

21 The parties believe discovery can be completed by August 1, 2024.

22

23

24

25

7. Whether the case should be bifurcated.

The parties do not believe bifurcation is appropriate.

8. Whether pretrial statements and pretrial order under Local Rules 16(e), (h), (i), and (k), and 16.1 should be dispensed with.

The parties do not believe pretrial statements or a pretrial order should be dispensed with in this case.

9. Any other suggestions for shortening or simplifying the case.

None at this time.

10. Date the case will be ready for trial.

The parties believe this case will be ready for trial November 1, 2024.

11. Whether trial will be jury or non-jury.

This will be a jury trial.

12. Number of trial days required.

The parties anticipate that 10 trial days will be required.

13. Names, addresses, and telephone numbers of all trial counsel.

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14. Dates on which trial counsel may have complications to be considered in setting a trial date.

Plaintiff's counsel have trial conflicts on the following dates:

- 3/25/24 - *Williams v United States of America*, U.S. District Court No. 3:22-cv-05640;
- 4/10/24 - *Chipman v. Joyner*, Pierce County Superior Court No. 23-2-06084-4
- 5/23/24 - *Vaughn v. Vaughn*, Pierce County Superior Court No. 23-2-06901-9;
- 6/3/24 - *Schaffer v. Thurston County*, King County Superior Court No. 23-2-10204-5 SEA
- 6/3/24 - *Bishop v. McKenna*, Pierce County Superior Court No. 22-2-10883-1;
- 6/24/24 - *Sandidge v. TCC*, Pierce County Superior Court No. 23-2-07722-4;
- 7/8/24 - *Barnard v. Kaiser*, Pierce County Cause No. 23-2-04117-3;
- 7/15/24 - *Hamilton v. Lukavsky*, Pierce County Cause No. 22-2-07503-7;
- 7/31/24 - *Ackerman v. NW Sports*, Pierce County Cause No. 23-2-04520-9
- 8/8/24 - *Arellano v. CalPortland, Carl Martin and Walsh Construction*, Pierce County Superior Court No. 23-2-08903-6;
- 9/9/24 - *Lovell v. Providence Health*, Thurston County Superior Court No. 23-2-01813-34
- 9/10/24 - *French v. Homesite Insurance*, Pierce County Superior Court No. 23-2-041360

- 9/23/24 - *Estate of Raymond Mellor v. The Arbor Rose*, Pierce County Superior Court Cause No. 22-2-05823-0
- 12/10/24 - *Pikalov v. MultiCare Health System*, Pierce County Superior Court No. 23-2-07445-4
- 4/24/25 - *Moore v. Franciscan Medical Group*, Pierce County Superior Court No. 23-2-10769-7

Defendants' counsel currently has trial conflicts on the following dates:

- January 4, 2024 - April 1, 2024, which involves 3 trials consecutively without a meaningful break.

15. If service has not been effected, the date on which it will be effected.

Defendants have been served.

16. Whether any party requests a scheduling conference.

The parties are not requesting a scheduling conference.

17. Dates that each nongovernmental corporate party filed its disclosure statement.

No corporate disclosure statements are required in this case.

DATED this 13th day of November, 2023

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